

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 05-17-04. Dates of service 05-14-03 and 05-16-03 were not timely filed per Rule 133.308(e)(1) and will not be considered in this review.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. The IRO agrees with the previous determination that the therapeutic exercises to a maximum of four (4) units per date of service from 05-19-03 through and including 06-13-03 **were** medically necessary. The IRO concluded that the electrical stimulation, massage, joint mobilization, myofascial release and office visits for dates of service 05-19-03 through 10-13-03 and therapeutic exercises more than four (4) units for date of service 05-19-03 through 06-13-03 and therapeutic exercises after date of service 06-13-03 **were not** medically necessary. The respondent raised no other issues for denying electrical stimulation, therapeutic exercises, massage, joint mobilization, myofascial release and office visits rendered from 05-19-03 through 10-13-03. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 05-19-03 through 06-13-03 in this dispute.

This Findings and Decision and Order are hereby issued this 27th day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

August 17, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT

Corrected services in dispute.

Re: Medical Dispute Resolution
MDR #: M5-04-3056-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.:

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by:

Requestor: office notes, operative & radiology reports.

Respondent: designated doctor exam.

Orthopedic Surgeon: office notes.

2nd Orthopedic Surgeon: office notes.

Pain Management Specialist: correspondence, office notes & procedure reports.

Neurosurgeon: office notes, nerve conduction study.

Neurologist: office notes & nerve conduction study.

Chiropractor: office notes.

2nd Pain Management Specialist: office notes.

Clinical History:

Patient is a 46-year-old female who was injured on her job on ___,. She was seen initially by the company doctor who returned her to work. She then presented to a doctor of chiropractic and received roughly 6 weeks of physical

therapy. She then changed to another doctor of chiropractic who continued with physical therapy and rehabilitation. When response was less than desired, she underwent two cervical epidural steroid injections and three lumbar epidural steroid injections.

Disputed Services:

Electrical stimulation, therapeutic exercises, massage, joint mobilization, myofascial release, and office visits during the period of 05/19/03 through 10/13/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that the therapeutic exercises (97110) to a maximum of four (4) units per encounter from 05/19/03 through and including 06/13/03 were medically necessary. All remaining services and procedures in dispute as stated above during the period of 05/19/03 through 10/13/03 were not medically necessary in this case.

Rationale:

In this case, the documentation adequately reflected that the patient sustained a compensable injury and was therefore entitled to care. Therefore, it was medically necessary for the treating doctor to perform periodic reevaluations to monitor the patient's status; and, it was also important that he complete periodic required reports. Furthermore, it was medically necessary to perform a trial of conservative therapy in the form of therapeutic exercise for four weeks after presenting to his office.

However, since this patient had already been in a physical therapy program for 6 weeks before commencing her therapy under this doctor of chiropractic, an additional 4-week trial of an active therapy program was appropriate according to the *Guidelines*¹. But since the patient failed to respond in this case, the medical necessity of further care past that date cannot be supported. With regard to the passive modalities, it was already 6 weeks post-injury when these services were rendered. Based on that, and because the patient was non-responsive, the medical necessity of continued application of passive modalities during that time frame was not supported.

In fact, according to the doctor's own medical records, the patient actually worsened during the five month period. Specifically, and from a subjective standpoint, on 05/07/03 the patient rated her neck pain at 6-8/10 ("10" representing the worst pain imaginable), her lower back pain at 7/10, and her shoulder pain at 7/10. Then, according to the records, on 10/13/03, the patient still rated both her neck and lower back pain at 7/10 (with no additional comment about her shoulder pain). Furthermore, upon reviewing the ranges of motion, between dates of service 05/07/03 and 10/13/03, cervical flexion, cervical extension, and both right and left cervical lateral bending *decreased* following the 5 months of treatment, with both left and right cervical rotation motions remaining basically unchanged. Therefore, the care rendered in this case failed to meet the statutory requirements for medical necessity defined in Texas Labor Code 408.021 in that it did not cure or relieve the patient's symptoms, it did not promote her recovery, and it did not enhance her ability to return to work.

¹ Haldeman, S; Chapman-Smith, D; Petersen, D; *Guidelines for Quality Assurance and Practice Parameters*, Aspen Publishers, Inc., 1993

Additionally, it is important to note that although the treating doctor prepared periodic "Subsequential <sic> Medical Reports," no daily office notes of any kind were available to review. Therefore, it is unknown what specific exercises were performed or for how long, where the electrical stimulation and/or joint mobilization and/or myofascial release was applied, or even how the patient tolerated the treatment. This fact made determining medical necessity more difficult. Also, there was no mention anywhere in the documentation that either cervical or lumbar spinal manipulations were performed on this patient. Several randomized studies^{2 3 4} have proven the effectiveness of spinal manipulation for patients with cervical spine symptoms and conditions, and the AHCPR⁵ guidelines stated that spinal manipulation was the only recommended treatment that could relieve symptoms, increase function and hasten recovery for adults suffering from acute low back pain. Based on those findings, it is difficult to understand why a doctor of chiropractic would withhold this recommended treatment while performing a host of other non-recommended therapies.

Sincerely,

² Hurwitz EL, Morgenstern H, Harber P, Kominski GF, Yu F, Adams AH. A randomized trial of chiropractic manipulation and mobilization for patients with neck pain: clinical outcomes from the UCLA neck-pain study. *Am J Public Health.* 2002 Oct;92(10):1634-41.

³ Hoving JL, Koes BW, de Vet HC, van der Windt DA, Assendelft WJ, van Mameren H, Deville WL, Pool JJ, Scholten RJ, Bouter LM. Manual therapy, physical therapy, or continued care by a general practitioner for patients with neck pain. A randomized, controlled trial. *Ann Intern Med.* 2002 May 21;136(10):713-22.

⁴ Gross AR, Hoving JL, Haines TA, Goldsmith CH, Kay T, Aker P, Bronfort G, Cervical overview group. Manipulation and Mobilisation for Mechanical Neck Disorders. *Cochrane Database Syst Rev.* 2004;1:CD004249.

⁵ Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPR Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994.